

AMENDED IN ASSEMBLY SEPTEMBER 8, 2003

AMENDED IN ASSEMBLY JULY 16, 2003

AMENDED IN ASSEMBLY JULY 3, 2003

AMENDED IN ASSEMBLY JUNE 26, 2003

SENATE BILL

No. 67

Introduced by Senator Bowen

January 17, 2003

An act to amend Section 399.14 of, and to add Section 399.16 to, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 67, as amended, Bowen. Energy: California Renewables Portfolio Standard Program.

Existing law establishes the California Renewables Portfolio Standard Program. The program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard). Under existing law, the Public Utilities Commission is prohibited from requiring an electrical corporation to conduct procurement to fulfill the renewables portfolio standard until it is deemed creditworthy by the commission. Existing law requires the commission to direct electrical corporations to prepare, within 90 days of being deemed creditworthy, and to review and update, as necessary, renewable energy procurement plans that are sufficient to

satisfy its obligations under the renewables portfolio standard. Existing law requires the commission to allow an electrical corporation to recover, in rates, electricity procurement and administrative costs associated with long-term contracts reasonably incurred consistent with a renewable energy procurement plan approved by the commission.

This bill would prohibit the commission from requiring an electrical corporation to conduct procurement to fulfill the renewables portfolio standard until (1) the commission determines either that the electrical corporation has attained an investment grade credit rating or (2) that the electrical corporation is able to procure eligible renewable energy resources on reasonable terms, those resources can be financed if necessary, and the procurement will not impair the restoration of an electrical corporation's creditworthiness. The second provision would not apply before April 1, 2004, to an electrical corporation that is in federal court under Chapter 11 of the federal bankruptcy law. The bill would clarify that the provision allowing an electrical corporation to recover, in rates, electricity procurement and administrative costs associated with long-term contracts applies to contracts entered into pursuant to the California Renewables Portfolio Standard Program. The bill would make other clarifying changes.

The bill would authorize the commission to consider an electric generating facility that is located outside the state to be an eligible renewable energy resource if it meets certain criteria.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 399.14 of the Public Utilities Code is
2 amended to read:
3 399.14. (a) The commission shall direct each electrical
4 corporation to prepare renewable energy procurement plans as
5 described in paragraph (3) to satisfy its obligations under the
6 renewables portfolio standard. To the extent feasible, this
7 procurement plan shall be proposed, reviewed, and adopted by the
8 commission as part of, and pursuant to, a general procurement plan
9 process. The commission shall require each electrical corporation
10 to review and update its renewable energy procurement plan as it
11 determines to be necessary.



1 (1) (A) The commission shall not require an electrical
2 corporation to conduct procurement to fulfill the renewables
3 portfolio standard until the commission determines either of the
4 following:

5 (i) The electrical corporation has attained an investment grade
6 credit rating as determined by at least two major rating agencies.

7 (ii) The electrical corporation is able to procure eligible
8 renewable energy resources on reasonable terms, those resources
9 can be financed if necessary, and the procurement will not impair
10 the restoration of an electrical corporation's creditworthiness. This
11 provision shall not apply before April 1, 2004, for any electrical
12 corporation that on June 30, 2003, is in federal court under Chapter
13 11 of the federal bankruptcy law.

14 (B) Within 90 days of the commission's determination as
15 provided in subparagraph (A), an electrical corporation shall
16 conduct solicitations to implement a renewable energy
17 procurement plan. The determination required by this paragraph
18 shall apply only to the requirements established pursuant to this
19 article. The requirements established for an electrical corporation
20 pursuant to Section 454.5 shall be governed by that section.

21 (2) Not later than six months after the effective date of this
22 section, the commission shall adopt, by rule, for all electrical
23 corporations, all of the following:

24 (A) A process for determining market prices pursuant to
25 subdivision (c) of Section 399.15. The commission shall make
26 specific determinations of market prices after the closing date of
27 a competitive solicitation conducted by an electrical corporation
28 for eligible renewable energy resources. In order to ensure that the
29 market price established by the commission pursuant to
30 subdivision (c) of Section 399.15 does not influence the amount
31 of a bid submitted through the competitive solicitation in a manner
32 that would increase the amount ratepayers are obligated to pay for
33 renewable energy, and in order to ensure that the bid price does not
34 influence the establishment of the market price, the electrical
35 corporation shall not transmit or share the results of any
36 competitive solicitation for eligible renewable energy resources
37 until the commission has established market prices pursuant to
38 subdivision (c) of Section 399.15.

39 (B) A process that provides criteria for the rank ordering and
40 selection of least-cost and best-fit renewable resources to comply

1 with the annual California Renewables Portfolio Standard
2 Program obligations on a total cost basis. This process shall
3 consider estimates of indirect costs associated with needed
4 transmission investments and ongoing utility expenses resulting
5 from integrating and operating eligible renewable energy
6 resources.

7 (C) Flexible rules for compliance including, but not limited to,
8 permitting electrical corporations to apply excess procurement in
9 one year to subsequent years or inadequate procurement in one
10 year to no more than the following three years.

11 (D) Standard terms and conditions to be used by all electrical
12 corporations in contracting for eligible renewable energy
13 resources, including performance requirements for renewable
14 generators.

15 (3) Consistent with the goal of procuring the least-cost and
16 best-fit eligible renewable energy resources, the renewable energy
17 procurement plan submitted by an electrical corporation shall
18 include, but is not limited to, all of the following:

19 (A) An assessment of annual or multiyear portfolio supplies
20 and demand to determine the optimal mix of renewable generation
21 resources with deliverability characteristics that may include
22 peaking, dispatchable, baseload, firm, and as-available capacity.

23 (B) Provisions for employing available compliance flexibility
24 mechanisms established by the commission.

25 (C) A bid solicitation setting forth the need for renewable
26 generation of each deliverability characteristic, required online
27 dates, and locational preferences, if any.

28 (4) In soliciting and procuring eligible renewable energy
29 resources, each electrical corporation shall offer contracts of no
30 less than 10 years in duration, unless the commission approves of
31 a contract of shorter duration.

32 (5) In soliciting and procuring eligible renewable energy
33 resources, each electrical corporation may give preference to
34 projects that provide tangible demonstrable benefits to
35 communities with a plurality of minority or low-income
36 populations.

37 (b) The commission shall review and accept, modify, or reject
38 each electrical corporation's renewable procurement plan 90 days
39 prior to the commencement of renewable procurement pursuant to
40 this article by the electrical corporation.

1 (c) The commission shall review the results of a renewable
2 energy resources solicitation submitted for approval by an
3 electrical corporation and accept or reject proposed contracts with
4 eligible renewable energy resources based on consistency with the
5 approved renewable procurement plan. If the commission
6 determines that the bid prices are elevated due to a lack of effective
7 competition amongst the bidders, the commission shall direct the
8 electrical corporation to renegotiate such contracts or conduct a
9 new solicitation.

10 (d) If an electrical corporation fails to comply with a
11 commission order adopting a renewable procurement plan, the
12 commission shall exercise its authority pursuant to Section 2113
13 to require compliance.

14 (e) Upon application by an electrical corporation, the
15 commission may authorize another entity to enter into contracts on
16 behalf of customers of the electrical corporation for deliveries of
17 eligible renewable energy resources to satisfy the annual portfolio
18 standard obligations, subject to similar terms and conditions
19 applicable to an electrical corporation. The commission shall
20 allow the procurement entity to recover reasonable costs through
21 retail rates subject to review and approval.

22 (f) Procurement and administrative costs associated with
23 long-term contracts entered into by an electrical corporation for
24 eligible renewable energy resources pursuant to this article, at or
25 below the market price determined by the commission pursuant to
26 subdivision (c) of Section 399.15, shall be deemed reasonable per
27 se, and shall be recoverable in rates.

28 (g) For purposes of this article, “procure” means that a utility
29 may acquire the renewable output of electric generation facilities
30 that it owns or for which it has contracted. Nothing in this article
31 is intended to imply that the purchase of electricity from third
32 parties in a wholesale transaction is the preferred method of
33 fulfilling a retail seller’s obligation to comply with this article.

34 (h) Construction, alteration, demolition, installation, and
35 repair work on an eligible renewable energy resource that receives
36 production incentives or supplemental energy payments pursuant
37 to Section 383.5, including, but not limited to, work performed to
38 qualify, receive, or maintain production incentives or
39 supplemental energy payments is “public works” for the purposes

1 of Chapter 1 (commencing with Section 1720) of Part 7 of
2 Division 2 of the Labor Code.

3 SEC. 2. Section 399.16 is added to the Public Utilities Code,
4 to read:

5 399.16. The commission may consider an electric generating
6 facility that is located outside the state to be an eligible renewable
7 energy resource if it meets the criteria described in Section 399.12
8 and all of the following requirements:

9 (a) It is located so that it is, or will be, connected to the Western
10 Electricity Coordinating Council (WECC) transmission system.

11 (b) It is developed with guaranteed contracts to sell its
12 generation, and demonstrates delivery of energy, to a retail seller
13 or the Independent System Operator.

14 (c) It participates in the accounting system to verify
15 compliance with the renewables portfolio standard by retail
16 sellers, *once* established by the State Energy Resources
17 Conservation and Development Commission pursuant to
18 subdivision (b) of Section 399.13.

